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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/708,312

02/24/2004

Todd L. DePue

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09/18/2006

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EXAMINER

LAMBELET, LAWRENCE EMILE

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,312

Applicant(s)

DEPUE, TODD L.

Examiner

Lawrence Lambelet

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Bertschi et al (U.S. Patent 5,651,998).

Bertschi et al, hereafter "Bertschi", discloses a method of forming a multi-layered molded article, as recited by claim 5. Bertschi teaches injecting three materials into a mold using a combination of co-injection and singular-injection nozzles. See lines 28-62 in column 7 and Fig. 16. Bertschi further teaches that the injections can be independently effected and that the co-injection nozzle is capable of simultaneous injection, as shown at lines 57-61 in column 7. Accordingly, and with reference to Fig. 16, it can be seen that a first material, reference character 492, representing a first shot, is the substrate member, and that second and third materials, 444 and 490, simultaneously co-injected in a second shot, represent a cover member on the substrate.

The preamble cites an automotive trim assembly as an application for the method. A preamble, however, is generally not accorded any patentable weight where

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it merely recites the purpose of a process and the body of the claim does not depend on the preamble for completeness. *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoemann et al (U.S. Patent Application Publication 2004/0017023), and further in view of Thompson (U.S. Patent 6627134).

Schoemann et al, hereafter "Schoemann", discloses two-shot molding for a vehicle trim panel, as recited by claim 5. Schoemann teaches that a substrate is formed of a first material in a mold having a two-shot capability provided by a movable core forming a recess in the substrate. This is shown in paragraphs [0029] and [0030]. Schoemann further teaches that a second material forming an accent region (cover) is injected in the recess in a second shot after the mold is reconfigured. See paragraphs [0034] and [0035].

Schoemann teaches that the first material is polypropylene, which is a thermoplastic olefin, as required by claim 7. See paragraph [0032].

Schoemann does not teach co-injecting a third material, as required by claim 5. Schoemann further does not teach that second and third materials are outer pliable and inner compressible layers formed during a co-injection step, as required by claim 6. Schoemann still further does not teach that the second material is a thermoplastic elastomer, as required by claim 8.

Thompson teaches forming a skin material over a core material in a co-injection process at lines 63-67 in column 2 and lines 1-6 in column 3. Thompson further teaches that the skin material is Santoprene (thermoplastic elastomer) in example 4. Thompson still further teaches that the core is a foam material (compressible layer) at lines 35-40 in column 1.

Schoemann and Thompson are combinable because they are concerned with a similar technical field, namely, molding multilayered articles. One of ordinary skill in the art at the time of the invention would have found it obvious to include in the method of Schoemann a cushion-like panel insert, as taught by Thompson. The motivation, as taught by Schoemann in paragraph [0034], is to provide a tactilely pleasing surface. A surface which is yielding as well as soft, as taught by Thompson, advances that purpose.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schoemann in view of Thompson as applied to claims 5-8 above, and further in view of Dry (U.S. Patent 6,899,363).

Schoemann and Thompson teach the method of claims 5-8, as discussed above.

Schoemann and Thompson do not teach the third material as a thermoplastic elastomer foam, as required by claim 9.

Dry teaches a flexible foam or elastomeric pad for a cushion material sandwiched between a substrate and a cover layer. See lines 15-20 in column 1.

Schoemann, Thompson and Dry are combinable because they are concerned with a similar technical field, namely, molding multilayered articles. One of ordinary skill in the art at the time of the invention would have found it obvious to include in the method of Schoemann and Thompson the cushion construction of Dry. The motivation, as taught by Schoemann in paragraph [0034], is to provide a tactilely pleasing surface. The cushioning material, as taught by Dry, further advances that purpose.

Response to Arguments

Applicant's arguments, see Reply to Office Action of 5/17/2006, filed 8/10/2006, with respect to the rejection(s) of claim(s) 5-9 under 35 USC § 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bertschi et al (U.S. Patent 5,651,998) and also in view of Schoemann et al (U.S. Patent Application Publication 2004/0017012) combined with Thomson (U.S. Patent 6,627,134) and Dry (U.S. Patent 6,899,363).

Conclusion


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Lambelet whose telephone number is 571-272-1713. The examiner can normally be reached on 8 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LEL
9/8/2006


CHRISTINA JOHNSON
PRIMARY EXAMINER
9/14/07